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# International Food Assistance and Agricultural Cargo Preference

The United States is the largest provider of international food assistance globally. Approximately 40% of funding for such assistance in FY2020 (the most recent year for which comprehensive data are available) was used for the provision of food grown in the United States, referred to as “U.S. in-kind assistance,” to countries in need. Such commodities are subject to U.S.-flag shipping requirements in the Cargo Preference Act of 1954 (P.L. 83-664), as amended. Cargo preference requirements long have been controversial and the subject of considerable debate, both in Congress and throughout the food assistance stakeholder community.

## International Food Assistance

U.S. international food assistance programs are administered by the U.S. Department of Agriculture’s (USDA’s) Foreign Agricultural Service (FAS) or the U.S. Agency for International Development (USAID). Programs that provide U.S. in-kind food assistance include Food for Peace (FFP) Title II, Bill Emerson Humanitarian Trust, Food for Progress, and McGovern-Dole International Food for Education and Child Nutrition. **Table 1** lists each in-kind international food assistance program, the statutory authority, and the administering agency. USDA’s Commodity Credit Corporation (CCC) procures commodities for all U.S. in-kind food assistance programs, regardless of which agency administers the program.

**Table 1. In-Kind U.S. International Food Assistance Programs**

Program	Statutory Authority	Administering Agency
Food For Peace Title II	Food for Peace Act (P.L. 83-480)	USAID
Bill Emerson Humanitarian Trust (BEHT)	Agricultural Act of 1980 (P.L. 96-494)	USDA
Food for Progress	Food Security Act of 1985 (P.L. 99-198)	USDA
McGovern-Dole International Food for Education and Child Nutrition	Farm Security and Rural Investment Act of 2002 (P.L. 107-171)	USDA

**Source:** Compiled by CRS.

## Cargo Preference Legislative Authority

The Cargo Preference Act of 1954 (P.L. 83-664), as amended, mandates that at least 50% of the gross tonnage of U.S. government-financed cargoes must ship on U.S.-flag vessels. Since its passage, Congress has amended the Cargo Preference Act numerous times. The 1961 amendment to the Merchant Marine Act (P.L. 87-266) required that ships eligible to transport government food-aid cargoes either must be built in the United States or, if built abroad, must have sailed under the U.S. flag for the previous three years. Congress wanted to discourage foreign-flag ships from entering the U.S. cargo preference trade only temporarily during periods when the world shipping market was oversupplied.

In the Food Security Act of 1985 (P.L. 99-198), Congress increased the requirement for the share of food-aid tonnage shipped on U.S.-flag vessels from 50% to 75%. In 2012, Congress reversed its action of 1985, lowering the required share of food aid that must be carried on U.S.-flag vessels from 75% back to 50% in the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (P.L. 112-141).

The Merchant Marine Act of 1970 (P.L. 91-469) empowered the Maritime Administration (MARAD) to regulate how other federal agencies are to comply with the 1954 Act in response to allegations that other agencies intentionally did not fully comply with the law or interpreted the law differently than MARAD.

## U.S.-Flag International Fleet

Cargo preference applies to government-impelled cargoes, including in-kind aid under international food assistance programs transported via ocean freight. Qualifying U.S.-flag ships must be privately owned and employ a crew consisting of at least 75% U.S. citizens. The remaining crew must be U.S. residents.

As of October 2021, there were 84 privately owned U.S.-flag ships. U.S. entities owned by foreign shipping lines control about 45 of the 84 ships in the fleet. Under U.S. shipping law, those entities qualify as “documentation citizens,” which are companies located in the United States and operated by U.S. citizens but with a “foreign parent.” Obtaining status as a U.S. business entity gives carriers with foreign parents access to the Maritime Security Program (MSP), which provides a flat per-ship operating subsidy intended to offset the higher cost of registering under the U.S. flag. In return for the subsidies, the MSP vessels are to be made available to the Department of Defense (DOD) in times of war or national emergency. These vessels are designated as “militarily useful” by MARAD in consultation with DOD and are funded from

MARAD's budget. Foreign parent companies own about 63 vessels of the U.S.-flag fleet participating in the MSP.

### Potential Issues for Congress

From its origins in the 1950s, U.S. international food assistance relied predominantly on in-kind aid, but over the past decade, the United States has diversified its food assistance to include what USAID refers to as “market-based assistance” (e.g., locally and regionally procured commodities, cash assistance, and food vouchers). As of FY2020, in-kind aid accounted for approximately 40% of U.S. funding for international food assistance, with market-based assistance making up about 60%. Many other major donors—such as Canada, the United Kingdom, and the European Union—have converted primarily to cash-based assistance. The U.S. decision to continue to provide in-kind aid remains a subject of debate due to its generally higher cost compared with market-based approaches. Some Members of Congress, MARAD, and certain interest groups contend that cargo preference requirements facilitate U.S. military readiness by supporting the U.S.-flag fleet. Other Members, USDA, USAID, and many nongovernmental organizations assert that cargo preference requirements reduce purchases of U.S. commodities due to higher shipping costs and contribute to delayed shipments, among other challenges.

### Cost

Shipping on U.S.-flag vessels typically costs more than shipping on foreign-flag vessels. A 2011 study by MARAD (the most recent available) found that average daily operating costs for U.S.-flag vessels were 2.7 times higher than for foreign-flag vessels. Higher shipping costs on U.S.-flag ships raise the cost of providing in-kind food aid. The 2019 *USAID International Food Assistance Report* to Congress states that 11% of Title II funding was used to ship commodities from the United States to a foreign port.

The higher cost of shipping on U.S.-flag vessels reduces the volume of food aid that can be provided, the number of people who receive the aid, and the amount of food purchased from American farmers and food processors. In a 2019 hearing, the administrator of FAS stated that competition for U.S. vessels is limited, and shipping food aid on U.S.-flag ships costs roughly 200% more than on foreign-flag ships, reducing the amount of food aid commodities USDA is able to supply and the amount of commodities purchased from American farmers.

### Timeliness of Delivery and Appropriateness of Vessels

In-kind food shipments take an average of four to six months to reach their destination. Transporting food aid

requires food safety measures, such as regular fumigation to prevent contamination from pests, mold, or other forms of spoilage. Although prepositioning in-kind aid shortens delivery times, the Government Accountability Office concluded in 2014 that doing this could involve additional costs due to increased storage and shipping expenses.

In some instances, to meet cargo preference requirements, USDA and USAID have shipped food aid on vessels that are not meant to carry bulk food cargo and are not compatible with equipment typically used to load and unload bulk grains. According to USDA, this results in increased costs and delays in delivering food assistance.

### National Security Considerations

According to MARAD, cargo preference laws serve to protect U.S. ocean commerce from foreign control by sustaining a privately owned U.S.-flag merchant marine. In wartime and during national emergencies, the U.S.-flag merchant marine provides additional sealift capability to the Military Sealift Command (MSC). USA Maritime—an organization representing carriers and maritime unions—asserts that maintaining a U.S.-flag fleet and availability of U.S. mariners through cargo preference is a cost-effective alternative to the U.S. government building ships and hiring employees to maintain sealift capacity. Some opponents of cargo preference question its contributions to U.S. sealift capacity. They assert that few U.S.-flag ships depend on food aid shipments, and only some of those ships are capable of carrying military cargo. They also argue that cargo preference often benefits foreign shipping companies with U.S. subsidiaries rather than shipping companies with parent organizations based in the United States.

MARAD's 2017 Maritime Workforce Working Group stated that the number of qualified U.S. mariners was sufficient to crew the fleet of government and privately owned U.S.-flag ships necessary during an initial activation (for example, during wartime or a national emergency). However, it concluded the number of U.S. mariners was insufficient to support a sustained activation of this fleet for more than 180 days.

### More Information

For more information, see CRS Report R45422, *U.S. International Food Assistance: An Overview*; CRS Report R44254, *Cargo Preferences for U.S.-Flag Shipping*; and CRS Report R41072, *U.S. International Food Aid Programs: Background and Issues*.

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